IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 24491 of 2004

Between:

Sarisolla Nagaraju, Owner of M/s. Venkata Ganesh Rice & Floor Mill,
Lakshmipuram Village, Chodavaram Mandal,
Visakhapatnam District.

..... PETITIONER

AND

1 The Chairman & Managing Director, AP Transco, Vidyut Soudha, Hyderabad.
2 The Superintending Engineer, Assessments, APEPDCL, Dabagardens, Near Leela Mahal, Visakhapatnam.
3 The Asst. Divisional Engineer, Operation, Chodavaram, Visakhapatnam.
4 The Divisional Engineer, APEPEPDC Ltd., O/o. the Divisional Engineer, Operations, Anakapalli, Visakhapatnam District.
5 The Asst. Divisional Engineer, DPE -II, O/o. the Asst. Divisional Engineer, APEPDC Ltd., Anakapalli, Visakhapatnam District.
6 The Addl. Accounts Officer, (E.RO.), O/o. the Asst. Accounts Officer, APEPDC Ltd., Anakapalli, Visakhapatnam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or order or any direction more or any other appropriate writ of direction, declaring the provisional Assessment Notice dated 14-10-2004 issued by the 3rd respondent vide letter No. ADE/O/COM/E/D.No.1504/04 in case No. VSP/011/00161/04 confirmed by the second respondent in his Proceedings dt. 8-11-2004, vide letter No. SE/A/VSP/ANK/DCDV/Pf 1803/D.No. 2553 in spite of petitioner's representation dt. 6-12-2004 is illegal, arbitrary, unjust, improper, untenable, unsustainable in law by suspend the same as is opposed to the principles of natural justice.

Counsel for the Petitioner:MR.E.S.RAMACHANDRA MURTHY

Counsel for the Respondents: Mr.V.Ravindra Kumar

The Court at the stage of admission made the following ORDER:

The petitioner is the owner of a rice mill and is extended the power supply by the respondents. He was issued a letter dated 15-10-2004, wherein it was alleged that the petitioner has resorted to the acts of pilferage and the power so pilfered is valued at Rs.92,403/-. The petitioner was required to pay a sum of Rs.46,201/-, in case he wants the continuance of power supply. The petitioner challenges the same.

Heard learned counsel for the petitioner and learned standing counsel for the respondents.

The letter dated 15-10-2004 was issued to the petitioner in the form of an order of provisional assessment. The letter itself indicates that an enquiry would be held in the matter. The petitioner is said to have been issued a show cause notice and an order of final assessment needs to be passed after considering the explanation offered by the petitioner. Till such an order is passed, the petitioner cannot be fastened with any liability.

In Writ Appeal Nos.452 and 477 of 2004, a Division Bench of this Court held that a consumer cannot be fastened with any liability unless an order of final assessment is passed.

In that view of the matter, the writ petition is allowed and the impugned letter dated 15-10-2004 so far as it requires the petitioner to pay a sum of Rs.46,201/- is set aside. The petitioner shall be supplied with the power, without insisting on payment of the said amount. The petitioner shall, however, be liable to pay the regular consumption charges. No order as to costs.

29-12-2004

Note: Issue C.C. by two days

(B/o)

kdl

To

1 The Chairman & Managing Director, AP Transco, Vidyut Soudha, Hyderabad.
2 The Superintending Engineer, Assessments, APEPDCL, Dabagardens, Near Leela Mahal, Visakhapatnam.
3 The Asst. Divisional Engineer, Operation, Chodavaram, Visakhapatnam.
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7 Two CD copies.